

TENANTS RIGHTS MANUAL

Prepared by:
The Roseville Coalition
Carlos E. Ortiz
Director of Tenant Affairs
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DISTRIBUTED BY THE NEWARK COALITION FOR NEIGHBORHOODS

38½ Walnut Street Newark, New Jersey 07102 - 643-7711

WARNING

The information in this tenants' manual applies only to residents of Newark, since most cities establish their own laws regarding tenants and landlords. The intention of this manual is solely to provide basic information to tenants regarding their rights as apartment dwellers and provide information on what they can do to prevent abuses by landlords.

We advise anyone with certain problems to seek legal advice. A listing of agencies and organizations where tenants can go for assistance appears at the end of this manual. Before taking any action on problems, consult one of the agencies listed in the back of this manual. Many laws are not applicable to certain situations. Laws governing tenancy in owner-occupied dwellings vary from those governing tenancy in multiple dwellings.

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CHAPTER I: RENTING AN APARTMENT

It is hard to find a good apartment in Newark. There is a severe shortage of good housing in this city. The following is a guide of what you should look for and be aware of when renting an apartment:

Discrimination

If you have attempted to rent an apartment and have been denied the right to rent for reasons you may feel are discriminatory, you should contact New Jersey State Division on Civil Rights, 1100 Raymond Boulevard, Room 400, Newark, New Jersey 07102, 201-648-2700. New Jersey State law prohibits discrimination in renting on the basis of race, creed, color, national origin, ancestry, sex, age, marital status, or physical condition.

Proving a case of discrimination may be difficult; however, if you have been denied rental, you should have a friend attempt to rent the same apartment by calling to see if the apartment is still vacant. Try to find someone to whom you feel the landlord would likely rent the apartment. Then have this friend act as a witness on your behalf. The Division on Civil Rights will give you free assistance in ensuring your right to rent the apartment.

Rental Agencies

If you decide to use the services of a rental agent or an "apartment finder" to look for an apartment, you should always know with whom you are dealing. Check out the agent with your local consumer action group to see if he is "reputable." Rental agents are usually used by landlords to screen out "undesirable" tenants, such as blacks, latins, welfare recipients, or single men or women. If you feel you are being discriminated against by a rental agent, you should file a complaint to N.J. Division on Civil Rights and to N.J. Real Estate Commission (see back page).

Apartment finders too often sell a list of apartments which they have taken from the morning newspaper or a list of addresses of non-existent buildings (vacant lots, condemned buildings, etc.) Before paying these agents any fee, you should find out what you're paying for. The following question should be asked of a rental agent:

Is the fee returnable to me? If...

- your agency does not find me an apartment?
- I'm refused an apartment you have referred me to?
- the apartment you refer me to is already rented?

Or

Is the fee applicable to the security deposit or the first month's rent?

Is the fee non-returnable regardless of what happens?

If you feel that the rental agent you have dealt with has behaved unethically, file a complaint with the Real Estate Commission.

WARNING: Never sign a contract with an agent until you are completely satisfied that you understand the terms of the contract. If possible, get a lawyer to read it before you sign.

The Lease

A lease is a written or oral agreement between mentally sound adults specifying amount of money and length of time an apartment will be rented for. Most apartments in Newark are rented on a month-to-month basis through an oral agreement between landlord and tenant. If a tenant plans on staying in an apartment for a year or more, he should request a written lease. However, he should have a lawyer read it before signing it to ensure that there are no illegal clauses in it or rent increases other than the amount agreed to for the duration of the lease.

Security

Any landlord renting an apartment has the right to ask for a security deposit of not more than one and one half times the monthly rent. If your rent is \$200, your landlord may ask for a security deposit of \$300. However, this money must be held in trust for the tenant in an interest-bearing bank account separate from the landlord's money. The landlord must notify tenant within thirty (30) days of the bank in which the money is deposited and must give tenant the yearly interest earned either in cash or in the form of a reduction in the rent. If the landlord fails to give the tenant notification of where the security is deposited, the tenant may apply his security deposit as rent for any given month. He may do this only after giving written notice of his action to the landlord. A security deposit can be kept by landlords under certain circumstances (see Chapter 7).

How to Pay Rent

Knowing how to pay your rent is important. You should always pay your rent by personal check or bank money order. These two ensure for you a proper receipt of rent paid. Tenants should specify exactly what the money is for. Example: always write on the check or money order the month and year that rent is being paid for - "rent for the month of August, 1978." This certifies that rent was paid for that specific time period and upon cashing the check, the landlord agrees to those terms. Note: bank money orders are easier to trace than postal or other money orders, and tenants can thereby more easily obtain proof of payment of rent for any given month.

Rights and Responsibilities of Tenants

When a tenant rents an apartment, he/she has certain RIGHTS that go along with the apartment he/she rents:

1. You have a right to a safe and sanitary dwelling. Under New Jersey law, the building must be "safe and healthy." The landlord must keep the building in a "habitable condition." This condition is determined by state or local laws governing apartment houses.
2. You have a right to know where your security deposit is and have it and the interest earned returned to you once you move out.
3. You have a right to access to all areas that are known as "common areas," such as hallways, elevators, laundry rooms, etc.
4. You have a right to know who your landlord is and where he can be reached.
5. Most importantly, you have a right to "lawful and exclusive" possession of your apartment. Your landlord cannot enter your apartment without your consent.

The RESPONSIBILITY of a tenant is more than just paying rent on time. He must ensure the protection of the landlord's property and keep it in a safe and clean condition. Tenants destroying landlord's property either willfully or through negligence are liable for the amount of damage done to the apartment. Landlords may deduct the amount of repair for damages from the security deposit (see Chapter 7), or take tenant to small claims court if damage exceeds the amount of security deposit.

Conditions of Apartment

When moving into an apartment, a tenant should always inspect the entire apartment and point out any necessary repairs to the landlord or person showing him the apartment. He should find out whether the landlord or the tenant is responsible for these repairs and when they will be done if landlord is responsible. He should also find out what services are included in the rent. For example:

1. Does the landlord paint the apartment?
2. If not, does he supply the paint?
3. Is a stove and refrigerator supplied by landlord?
4. Who pays for gas and electric?
5. Who is responsible for repairs?

You should ALWAYS get any agreement made on the above questions in writing. Do not accept verbal promises made by the landlord. You should always send your landlord a letter notifying him of the conditions of the apartment upon moving in. This will safeguard your security deposit in the future if the landlord attempts to keep it for damages not done during your tenancy.

CHAPTER 2: REPAIRS

When you have reached an agreement with your landlord and have properly notified him of needed repairs and have not gotten any satisfaction, there are certain measures you can take to try and correct the problems existing in your apartment or building. If you decide to use any of the following measures to get the needed services, make sure you seek legal assistance:

Organizing Tenants

If you are not getting results from your landlord regarding repairs, it is more than likely that other tenants have the same problem. You should start having informal discussions among the tenants regarding these problems. If enough people are interested, you should arrange a formal meeting to deal with the issues. If possible, get someone from the Local Legal Services Office, tenant organization, or community group to attend the meeting. A firm, yet formal, letter from the tenant association should be sent out to the landlord immediately. This letter should contain the following information:

- a. notification of decision to organize as a tenants association;
- b. names of officers of the association;
- c. names of members of the association;
- d. an itemized list of repairs (demands) needed in apartments and common areas;
- e. an invitation to the landlord to attend a future meeting to negotiate a schedule for making repairs.

Negotiating with Your Landlord

When meeting with your landlord, you should always have a lawyer present or someone knowledgeable in tenant rights. You should never feel intimidated by your landlord. Remember, you are only asking the landlord to keep his part of the rental agreement. Any advisor you invite to your meeting should not do the negotiating for you. Let that person know exactly what you want and do not be afraid to disagree with him if any advice he might give is contrary to the wishes of the tenant association. He is not the one who has to live with the problems in your building. Most of all, be firm in your commitment to any further action decided by the tenant association if the landlord does not comply with your demands.

Withholding Rent Monies

If the tenant association's demands are not being met by the landlord, members of the association may decide to withhold their rent monies

until their demands are met. Be sure that you have consulted a lawyer before choosing to do this. There must be a legal basis for withholding rent.

The tenant association should decide who is going to be responsible for keeping the rent monies in escrow and keep records of who is participating in the rent strike. It is best to rent a safe deposit box in a bank and keep all monies there until landlord takes you to court. Do not keep the money (cash) on hand, since it is very easy to spend this money and, therefore, jeopardize your case against the landlord. If you do not have the money by the court date, your landlord may receive a judgment for possession, and you may face eviction.

Repair and Deduct

"Repair and deduct" means that the tenant makes or has someone make the repairs and deducts the expenses from his rent. The tenant has a right to deduct this amount for repair only after notifying the landlord, in writing, of the needed repair and after giving a reasonable period of time to make the repair. If he fails to make the vital repair, you may deduct a reasonable amount for the cost of repairs. This should be used as a last resort because it may not hold up in court. Some judges will not accept the repair of certain items that are not "vital facilities." This means that the item repaired must directly affect the "habitability" of the apartment. If the judge does not accept the repair you have made as a "vital facility," you will be responsible for the entire months rent.

Code Enforcement

The city of Newark has a Code Enforcement office under the Department of Health and Welfare. This office is responsible for making sure that housing in Newark is kept up to code or "liveable." Your tenant association should always request that this office conduct "general inspection" of the entire building and all apartments.

Your landlord will receive a copy of the violations found in his building and be given a specific time period to correct them. You should always request a copy of the inspection report and follow up on whether your landlord has or has not complied with the order to make certain repairs by the Bureau of Code Enforcement.

If you feel that the inspection of your building was inadequate, notify your councilman or the Human Rights Commission of your displeasure. Request a reinspection of the building and demand that Code Enforcement takes your landlord to municipal housing court.

CHAPTER 3: RENT INCREASES

Notification

A landlord must give a tenant proper notification of any changes in the terms of the lease. The amount of time for legal notification is one entire month. Therefore, if the landlord wishes to increase the rent for March of any given year, he would have had to give tenant notification by January 31 of the same year. (Even though February has 28 days, it constitutes one entire month). Any tenant may fight an increase in rent if not given proper notification.

Another stipulation regarding increases is that the notification of increase must be worded in a certain manner. The notice must include these essential items:

- a. the landlord must let you know that your term of tenancy has expired;
- b. that the new terms are as stated;
- c. that you have the option of accepting the changes or moving out if they are not acceptable to you.

This type of notification is called a "Notice of Quit."

Rent Control

The Newark Rent Control Ordinance went into effect in 1973. This ordinance sets the procedure by which landlords may increase their rents and establishes the responsibilities of landlords and tenants. In this manual, we will deal solely with when a landlord can raise rents.

1. Automatic Increase

Under the Rent Control Ordinance, each year landlords are allowed to increase rents by 5%. This is called an "automatic increase." Proper notification must be given for the increase to be legal (see "Notification" above). Landlords may not raise rents more than once a year unless he applies and qualifies for the following increases.

2. Hardship Increase

An increase over the 5% "automatic increase" may be given to the landlord if he can prove he is operating his building at a loss. If a landlord is spending more money than he is receiving in rents, he may petition the Rent Control Board for a "hardship increase." The State Supreme Court handed down a judgment giving landlords the right to a "fair return" on their properties.

3. Capital Improvement

If a landlord improves services to the tenants by installing new equipment in the building that the building did not have before or the new equipment is more efficient than the one replaced, he has made what is called a "capital improvement" and can petition the Rent Control Board to raise rents. Capital Improvement should not be confused with regular repairs. If tenants were receiving no heat because the old boiler was no longer working and the landlord rebuilds it, he cannot call this a "capital improvement." Any improvement made on a building must benefit all of the tenants to justify this increase. However, a landlord can make a "capital improvement" on a single apartment, such as paneling, and raise the rent.

4. Tax Surcharge

Any landlord receiving an increase in his property taxes may pass this increase on to his tenants. However, he must petition the Rent Control Board for permission to do so and must present the calculations used to support whatever amount he wishes to increase his rents.

Rent Reductions

A tenant may petition the Rent Control Board for a reduction in rent if he/she can prove that the landlord has reduced services in the apartment or building. For example: If a tenant moves into an apartment in which utilities are included in the rent and afterward the landlord decides he will no longer pay for utilities, the tenant may petition the Rent Control Board to lower his rent because he is paying his own utilities.

Multi-family dwellings (three or more units or apartments) must be registered with the Rent Control Board. The exception is for three unit dwellings where the owner lives in the dwelling.

Landlords must submit their rent role to the Rent Control Board upon registering. A tenant who wants to know what amount of rent was being paid for by former tenants in his apartment may request the rent role from the Rent Control Board. If a tenant finds that the landlord has rented the apartment to him at an amount over the legal 5% increase, he may petition Rent Control for a rebate of all monies over the 5% paid by him for the amount of time he has lived in the apartment.

Any tenant who feels that rent increases given him are unjustifiable or unconscionably high may request a hearing before the Rent Control Board.

CHAPTER 4: WHO IS YOUR LANDLORD?

It is of upmost importance that you know who your landlord is. This is

necessary because he is the person ultimately responsible for ensuring that you get the services you are paying for. You must also know with whom you are dealing and whom you have to contact to let him know of problems in your building, and finally, who you will take to court if your problems are not dealt with.

New Jersey state law requires that landlords comply with the "Landlord Registration Act." This act requires that landlords file the following information with the clerk of the city or town in which his building is located:

1. landlord's name and address;
2. name and address of manager;
3. name and address of superintendent;
4. name and address of anyone holding a mortgage on the building;
5. name and address and telephone number of person available 24 hours a day in case of emergency.

The above information must be given to the tenant in writing and must also be posted in a visible area in the building where all tenants can see it.

CHAPTER 5: EVICTIONS

The one question which tenants ask the most is, "When and how can a landlord evict me?" Eviction is made easy for the landlord only if the tenant chooses to take no action on his own behalf and does not prepare to deal with his landlord in court. Upon receiving notification of an intent by the landlord to evict him, the tenant should immediately seek legal assistance.

Grounds for Eviction

The following is a list of grounds by which a landlord can begin eviction procedures against a tenant:

1. tenant fails to pay rent agreed upon in lease (written or verbal);
2. tenant, after receiving notice to stop being a disorderly person, continues disturbances (three-day notice required);
3. tenant damages property on purpose or by being careless (three-days notice required);
4. tenant breaks rules and regulations of building, such as keeping a pet where pets are not allowed, and continues to break these rules after notified to stop (one-month notice by landlord required);
5. tenant continues to break any rule or regulation of lease after

being told to stop (one-month notice required by landlord);

6. tenant refuses to pay rent increase after landlord has complied with all laws, and tenant has been notified of increase legally (one-month notice required by landlord if no written lease);
7. landlord decides to board up building because he can't afford upkeep any longer or the Health Department declares it "condemned" (three-months notice required);
8. landlord is not planning on renting apartments any longer (six-months notice required);
9. tenant refuses change in his lease after he has received proper notification (one-month notice);
10. tenant sets a pattern of paying his rent late constantly and has been notified to stop this practice (one-month notice required by landlord);
11. landlord decides that he is going to change his building into a cooperative or condominium (three-months notice required);
12. landlord is selling building which shall be converted into cooperative or condominium (two-months notice required);
13. tenant was living in the apartment because he was employed by the landlord as janitor, superintendent, and was terminated or quit his job (three-days notice required by landlord).

Notification

Before a landlord can begin eviction procedures he must give tenant proper notices. If he fails to do this he could lose the eviction case if tenant proves that he has not been properly notified. Usually, the landlord must give the tenant an entire month's "notice to cease" doing whatever he is in violation of, then he is sent a "notice to quit and vacate" premises, then he receives a summons to appear in Landlord-Tenant Court usually three days after "notice to quit." Tenant should take note of dates on letters and dates letters were received.

Summons

Landlord must pay \$7.80 to file a summons for removal of tenant from an apartment. This summons contains the specific complaint the landlord has against tenant. No other reason may be brought up in court other than that stated on the summons. For example: The landlord takes a tenant to court for non-payment of rent, then decides to mention to the judge that the tenant is disorderly. This type of action is not legal and tenant may ask that the case be dismissed.

A tenant will receive a copy of the summons and complaint being made against him soon after the landlord files it. The tenant must take notice of several things on summons. He must first look at the

complaint to determine what action to take. He must notice the date complaint was filed with the courts; and most important, he must take notice of "return date" or notice of when he has to appear in court. This date must not be less than five days from the date summons was served.

A summons may be served on any member of the household who is over the age of fourteen or any adult member of the tenant family living in the apartment or any adult occupant living in the apartment. If any of these people are not available, the server may post it on the door of the tenant's apartment or some other visible part of the building. If summons is served improperly, the judge has no right to hear the case. However, the tenant must prove that the summons was served improperly. This is usually an impossible task.

Any tenant receiving a summons for eviction should immediately seek legal advice and bring records to the legal advisor (letters to landlord, rent receipts, stubs for registered-certified mail, etc.) If landlord wins the case and tenant chooses to remain in the apartment, he must pay the \$7.80 filing fee paid by the landlord.

Harassment

A landlord cannot attempt to evict a tenant who has been or is involved in organizing a tenant organization, has been requesting due services, has attempted to right any wrongs committed against him by landlord through legal measures allowed him. Tenants have the right to exercise any of the following, without fearing harassment from landlord:

1. the tenant has attempted to defend his rights under lease, contract, state, or local law;
2. tenant has complained to authorities about violations of health and safety laws, regulations, codes, or laws governing housing; however, he must give him adequate time to correct them;
3. tenant is an organizer or member of any lawful organization, including a tenants organization;
4. tenant refuses changes made in lease by landlord because he took any of the above actions to correct problems in his apartment.

Any tenant who feels that his landlord is harassing him for any of these reasons, may file suit against landlord in civil court.

After you have received your "Notice to Quit" or summons to appear in court and have contacted legal assistance and reviewed all your records, you are ready for your day in court.

CHAPTER 6: YOUR DAY IN COURT

Landlord-Tenant Laws

Landlord-tenant laws, in the past, have favored landlords. This has its roots in the Middle Ages when the "lord of the land" rented land to serfs in return for a percentage of the crops reaped by the serf. Laws have reflected a certain favoritism towards the property owner and little protection of the tenants. In recent years, New Jersey has enacted laws that offer protection for tenants. If you have prepared your case well and can prove that your landlord is acting unjustly, you stand a good chance of winning your case.

Landlord-Tenant Court

1. Promptness

The most important part of the eviction process is to be in court on time. Roll call is promptly at 9 a.m. If your name is called and you are not present, a judgment for possession is entered against you. Your landlord gets possession of your apartment and can begin to evict you.

If for any reason you cannot make it to court on time, contact your attorney so that he can try to get an adjournment (set another date for your appearance). You must have a very good reason for not being able to appear. If you do not have an attorney, make sure that you call the courthouse clerk and tell him of your situation. A new date will be set for a future hearing.

2. Recordkeeping

When appearing in court, you should bring with you all the records you have kept in reference to your problem. You must bring your rent receipts, letters to and from your landlord, return receipts from any registered/certified mail sent to landlord, and most importantly, the amount of money due your landlord.

All of the above mentioned items are important to your case if you are to prove that you are not receiving services from your landlord. If landlord is trying to evict you for other reasons, such as being a disorderly person, he must prove that you have been causing disturbances in your building. Any notices that have been sent to you regarding your tenancy must also be brought to court. Also, bring witnesses to prove that you have not been disorderly.

3. Rent Money

If you are being evicted for non-payment of rent, you must bring the monies due to court. This means the total amount specified on the

summons. If you do not owe your landlord this amount, you have to prove this. If you cannot prove that you do not owe the specified amount, you will be liable for that amount. Landlord-Tenant law specifies that monies may be "due," but not necessarily "owed." This means that even though your rent is perhaps \$210 a month, which is the amount "due" your landlord, you may not "owe" him the entire \$210 because he has not provided the services promised in return for rent payment. Therefore, it is up to the judge to determine the amount of rent monies "due and owing." You must bring the entire amount specified on the summons, no matter what amount you feel is due your landlord.

4. Decision

In Landlord-Tenant court, testimony is heard by the judge, and it is he who decides the outcome of the hearing. If the judge, upon hearing the testimony of the tenant decides that certain conditions exist in the apartment which is due to the negligence of the landlord, he may lower the tenant's rent until those conditions are corrected or, he may decide that less money is owed to the landlord than is being demanded. However, if he feels that the tenant's arguments are not strong, he may give a "judgment for possession" to the landlord. This meaning he gives the landlord the right to begin eviction proceedings.

5. "Lock-out"

A landlord may begin eviction proceedings three days after he is given a "judgment for possession" in court. The court will issue a "warrant for removal." This warrant must be delivered in the same manner that summons are delivered. Three days after the "warrant for removal" is issued, a constable will come to the tenant's home. If he has not moved, he will ask that tenant to leave the apartment and he will put a lock on the door. Tenants must remember that there is no way that a landlord can remove them from the apartment forcibly. This can only be done through the process described above. A constable can call the police and have tenants removed if they refuse to leave. If you are locked out of your apartment, you have a right to pick up your belongings. You must remember that the landlord does not have to let you in more than once to pick up your possessions.

CHAPTER 7: MOVING OUT

Notification

When you are moving out of your apartment because your lease is up and you do not wish to renew it OR, you want to move elsewhere, you must give your landlord adequate notification. This is usually one-month notice. A landlord must be given enough time to find a new tenant for his apartment. You should also notify him that he has to return your security.

Getting Back Your Security

A landlord must return security deposit plus any interest earned within 30 days after the tenant moves out of his apartment. However, if he deducts any amount for damages to the apartment, he must submit an itemized list of damages and cost to the tenant. If the landlord does not comply with this, he can be sued in Small Claims Court for double the amount owed to the tenant. Small Claims Court handles any amount lower than \$500. If the amount being sued for is more than \$500, a tenant must file charges in County District Court. The judge in either case makes the decision as to what amount of money is due or not due anyone.

CHAPTER 8: RELOCATION

Any tenant who receives notification to vacate his apartment for any of the following reasons:

1. government, city, state, or federal needs properties for any development or official use;
2. Code Enforcement has condemned the building or has cited landlord for violations which require that you move before repairs can be made

is entitled to the following:

1. monies to pay for moving costs up to \$300 and \$200 dislocation allowance;
2. up to \$1,000 per year for four years to cover rental expenses or \$4,000 for a down payment on a home if you plan to buy one.

A tenant must move into a house that is:

1. decent, safe, and sanitary;
2. located near your place of employment and have easily accessible public transportation facilities;
3. affordable, about the same amount of rent you paid in your old apartment;
4. large enough to accommodate your family comfortably.

A tenant receiving notice of the intent to use the property for the reasons mentioned before should immediately get in touch with the city or county relocation office. If you have found a place to move to, you should make sure it meets the above mentioned qualifications and file for your benefits as soon as possible. You have up to six months to file.

ORGANIZATIONS OFFERING SERVICES FOR TENANTS

Newark-Essex Legal Services
1095 Raymond Boulevard
Newark, NJ 07102
(201) 642-7391

New Jersey Tenant Organization
P.O. Box 1142
Fort Lee, NJ 07024
(201) 947-9226

Rutgers Urban Legal Clinic
175 University Avenue
Newark, NJ 07102
(201) 648-5576

Newark Tenant Organization
944 Broad Street
Newark, NJ 07102
(201) 642-5043

CITY AGENCIES

Bureau of Code Enforcement
2 Cedar Street, 4th Floor
Newark, NJ 07102
General Inspection - 733-6481, 6471
Heat & Hot Water - 733-6491, 6492
Plumbing - 733-6491, 6492
Electrical - 733-6411, 6410

Bureau of Combustibles
1010-18th Avenue
Newark, NJ 07106
Inspection of Fire Hazards - 733-7495

Rent Control
City Hall Basement
920 Broad Street
Newark, NJ 07102

STATE AGENCIES

N.J. Division on Civil Rights
1100 Raymond Boulevard
Room 400
Newark, NJ 07102
(201) 648-2700

N.J. Real Estate Commission
201 East State Street
Trenton, NJ
(609) 292-7053

COUNTY AGENCIES

Essex County District Court
(Landlord-Tenant Court)
470 High Street
Newark, NJ 07102